

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ISELA ARCE,

Case No. 2:16-CV-740 JCM (NJK)

Plaintiff(s),

ORDER

V.

DOE EMPLOYEE 1, et al.,

Defendant(s).

Presently before the court is defendant Smith's Food & Drug Centers, Inc.'s motion for reconsideration of the magistrate judge's discovery order. (ECF No. 34). Plaintiff Isela Arce filed a response (ECF No. 35), to which defendant replied (ECF No. 36).

Defendant moves for reconsideration of Magistrate Judge Koppe's order (ECF No. 33) denying defendant's motion to reopen discovery (ECF No. 26). Defendant asserts that the magistrate judge penalized defendant for waiting nearly three months after it knew it wanted to seek additional discovery and more than two months after the discovery cutoff to file its motion. (ECF No. 34 at 4). Defendant argues that in doing so, the magistrate judge ignored the steps that it took "before the issue came to a head." (ECF No. 34 at 4).

“A district judge may reconsider any pretrial matter referred to a magistrate judge in a civil or criminal case under LR IB 1-3, when it has been shown the magistrate judge’s order is clearly erroneous or contrary to law.” LR IB 3-1(a). The district judge may affirm, reverse, or modify, in whole or in part, the magistrate judge’s order, as well as remand with instructions. LR IB 3-1(b).

Courts have broad discretionary power to control discovery. *See, e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). Pursuant to Rule 16(b), scheduling orders may be modified upon a showing of good cause and with the court's consent. *See Fed. R. Civ. P. 16(b)(4).*

The cutoff date for discovery was January 31, 2017. Despite knowing, since as early as January 19, 2017, that it needed additional discovery, defendant waited until April 21, 2017, to file its motion. Defendant asserts that it made several attempts to discuss the issue with plaintiff's counsel before filing its motion on April 7, 2017. (ECF No. 34 at 4). Notably, defendant fails to explain how these attempts precluded defendant from filing its motion.

In light of the foregoing and upon considering the record, the court finds that defendant has failed to set forth any showing of good cause in support of its motion to reopen discovery. Accordingly, the court AFFIRMS in whole Magistrate Judge Koppe's order (ECF No. 33) denying defendant's motion to reopen discovery (ECF No. 26).

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant's motion for reconsideration (ECF No. 34) be, and the same hereby is, DENIED.

DATED June 21, 2017.

Xenia C. Mahan
UNITED STATES DISTRICT JUDGE